

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 263 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE K.A.PUJ

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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C.I.T.

Versus

SYNPOL PRODUCTS (P) LTD.

Appearance:

1. INCOME TAX REFERENCE No. 263 of 1994
MR TANVISH U BHATT for Petitioner No. 1
..... for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE K.A.PUJ

Date of decision: 26/07/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue,
the following question is referred for our opinion in
respect of assessment year 1985-86:-

"Whether, the Appellate Tribunal is right in law
and on fact in holding that if the unpaid sales
tax liability is paid before the due date of
filing of return under section 139(1) of the
Income-tax Act, addition cannot be made invoking
the provisions of section 43B?"

2. We have heard Mr Tanvish Bhatt, learned Standing
Counsel for the revenue. Though served, none appears for
the assessee.

3. At the hearing of this Reference, our attention
is invited to the decision of the Apex Court in the case
of Allied Motors (P) Ltd. vs. CIT, 224 ITR 677 wherein
the Apex Court considered this question and answered the
same in favour of the assessee and against the revenue.

Following the aforesaid decision, our answer to
the question is in the affirmative i.e. in favour of the
assessee and against the revenue.

4. The reference accordingly stands disposed of with
no order as to costs.

(M.S. Shah, J) (K.A. Puj, J)
zgs/-